

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Donald J. Burkhead,
Appellant,

v.

Dallas County Board of Review,
Appellee.

ORDER

Docket No. 13-25-0660
Parcel No. 12-24-226-071

On December 31, 2013, the above-captioned appeal came on for hearing before the Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2) and Iowa Administrative Code rules 701-71.21(1) et al. The Appellant Donald Burkhead was self-represented. County Attorney Wayne M. Reisetter is counsel for the Board of Review. County Assessor Steve Helm appeared on its behalf at hearing. The Appeal Board, having reviewed the record, heard the testimony, and being fully advised, finds:

Findings of Fact

Donald J. Burkhead is the owner of a residentially classified property located at 14331 Alpine Drive, Urbandale, Iowa. The property is a one-story, bi-attached, townhome built in 2006 with 1414 square feet of total living area. The property has a full, unfinished basement, a patio, and open porch, and a two-car attached garage. The site is 0.08 acres.

Burkhead protested to the Board of Review regarding the 2013 assessment of \$167,050, allocated as \$36,000 in land value and \$131,050 in improvement value. He claimed an error in the assessment under Iowa Code section 441.37(1)(a)(4); however, the error he asserted was that the property was assessed for more than the value authorized by law under section 441.37(1)(a)(2).

The Board of Review granted the claim, in part, reducing the assessment to \$162,000.

Burkhead then appealed to this Board re-asserting his claim.

Burkhead purchased the subject property in March 2013 for \$152,000, and asserts this is the fair market value. He testified the property sat on the market for a year prior to the purchase. We note the sale of the subject does not conclusively establish its market value under Iowa law; however, it is a matter to be considered and, in this case, tends to suggest the property may be slightly over-assessed.

Burkhead testified he lost 40% of his backyard, as well as all the trees and privacy, through condemnation due to a widening of Meredith Drive shortly after he purchased the property. He believes the noise level will change dramatically because of the change from a two-lane to a four-lane road. However, he did not provide any supporting evidence to support his claim these changes affect the value of this home. Further, he acknowledged he was aware of the widening of the road behind his property prior to his purchase but he did not know to what extent it would diminish the privacy of his back yard.

He did not provide any comparable sale properties for analysis, an appraisal, or any other evidence of the subject property's market value as of January 1, 2013.

The Board of Review did not offer any evidence.

Conclusion of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin Cnty. Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. § 441.21(1)(b). In interpreting this provision, the Iowa Supreme Court has stated that while the sales price of a property may be evidence of its market value, the sales price *alone* is not determinative of the market value. *Riley v. Iowa City Bd. of Review*, 549 N.W.2d 289 (Iowa 1996). Rather, the subject property's sales price in a normal transaction is a matter to be considered in arriving at market value but does not *conclusively* establish the subject's market value. *Id.* at 290. If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

In an appeal alleging the property is assessed for more than the value authorized by law under Iowa Code section 441.37(1)(a)(2), the taxpayer must show: 1) the assessment is excessive and 2) the subject property's correct value. *Boekeloo v. Bd. of Review of the City of Clinton*, 529 N.W.2d 275, 277 (Iowa 1995). Burkhead testified he paid \$152,000 for the subject property and that should be its fair market value. He concedes that now, however, he would not pay more than \$145,000 after realizing the loss of privacy to his property because of the road widening. Consistent with Iowa law and in the absence of any other evidence of the property's value, we find the sales price is not

sufficient to establish the subject property's fair market value. *Riley*, 549 N.W.2d 289. Burkhead failed to prove that his property is assessed for more than authorized by law.

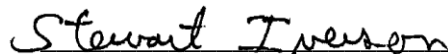
However, because Burkhead paid less than the assessed value for the property and there was physical modification of his backyard after the assessment date, he may wish to request an inspection to ensure the property is correctly listed and valued for the next assessment.

THE APPEAL BOARD ORDERS the 2013 assessment of Donald J. Burkhead's property located at 14331 Alpine Drive, Urbandale, Iowa of \$162,000, set by the Dallas County Board of Review, is affirmed.

Dated this 31st day of January, 2014.



Karen Oberman, Presiding Officer



Stewart Iverson, Board Chair



Jacqueline Rypma, Board Member

Copies to:

Donald J. Burkhead
14331 Alpine Drive
Urbandale, Iowa 50323
APPELLANTS

Wayne Reisetter
207 N 9th Street, Suite A
Adel, Iowa 50003
ATTORNEY FOR APPELLEE

Steve Helm
801 Court Street, Room 103
Adel, IA 50003
ASSESSOR